

PERSONAL DATA PROTECTION POLICY

GUARANTEE FUND FOR VICTIMS

JUNE 2020



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The Guarantee Fund for Victims (FGAO and FGTI) guarantees respect of the trust of victims who entrust it with their personal data in the context of the missions entrusted to it by law. As part of its activities of compensating victims and recovering from those responsible for the damages, it undertakes to ensure the security and confidentiality of use of personal data collected, respect for the freedoms and fundamental rights of the data subjects, and compliance with regulations in force.

Subject to the rules of the French Data Protection Act (Loi Informatique et Libertés) of 6 January 1978, amended in 2004 and 2018, the Guarantee Fund for Victims is adapting and strengthening its practices in accordance with the new regulations imposed by the GDPR (General Data Protection Regulation) of 27 April 2016, which came into force on 25 May 2018.

The Guarantee Fund for Victims, within the legal framework of its various missions of victim compensation and recourse against those responsible for the events, is required to implement various processing actions to carry them out. At this time, it collects, processes, stores, and communicates personal data, including sensitive information. These data are collected only if they are strictly necessary for the purposes of processing by the Guarantee Fund for Victims.

This personal data protection policy sets out how the Guarantee Fund for Victims (FGAO and FGTI) processes personal data, in accordance with the GDPR.

WHAT IS A PERSONAL DATA ?

Personal data is defined by the European Data Protection Regulation 2016/679 of 27 April 2016 (GDPR) as 'any information relating to an identified or identifiable natural person'.

It is therefore data that make it possible to identify a person, both directly (such as surname, given names, date of birth) and indirectly (such as a vehicle number plate for traffic accidents).

The term 'personal data' is commonly used.

The Guarantee Fund for Victims, as data controller, collects and processes personal data in order to carry out the missions assigned to it by law.

This information aims to enlighten any person concerned about the purposes pursued regarding how their personal data is used, as well as their rights.

WHY DOES THE FRENCH GUARANTEE FUND FOR VICTIMS COLLECT PERSONAL DATA ?

The Guarantee Fund for Victims collects and processes personal data in an appropriate, relevant, and limited manner and only to the extent necessary for the main purposes described below :

1/ To implement the legal missions of compensation and recovery :

- as regards the management of compensation claims from any person considering themselves the victim of a loss likely to be covered by the Guarantee Fund for Victims under one of its legal missions.

Processing carried out by the Guarantee Fund for Victims for its missions of compensating victims and pursuing recourse against those responsible is necessary to comply with the legal obligations to which the FGAO and the FGTI are subject.

The main processing operations of the Guarantee Fund for Victims have, as a legal basis :

- the provisions of Articles L. 421-1 et seq. of the Insurance Code, the purpose of which is to enable the FGAO to compensate victims of traffic accidents, hunting accidents, or property damage caused by mining;
- the provisions of Articles L. 421-3 et seq. of the Insurance Code, which allow the FGAO to pursue recourse against the person responsible for the damages;
- the provisions of Article L. 126-6 of the Insurance Code, the purpose of which is to enable to FGTI to compensate victims of terrorist acts
- the provisions of Articles 706-3 et seq. of the Criminal Procedure Code, the purpose of which is to enable the FGTI to compensate victims of criminal offences;

- the provisions of Articles 706-15-1 et seq. of the Criminal Procedure Code, the purpose of which is to help the FGTI to recover damages and interest for the victims of criminal offences and the provisions of Article L. 422-8 of the Insurance Code, the purpose of which is to pursue recourse by the Fund against the persons responsible for the damage.

Any refusal by a victim to provide the French Guarantee Fund for Victims with the personal data needed for the processing of their compensation claim will prevent the Guarantee Fund from proceeding with the claim.

In most cases, the data are provided directly by the victim, their lawyer, or their insurer. The French Guarantee Fund for Victims may collect data indirectly, particularly when it receives a victim's compensation claim containing information on the facts of the event, making it possible to identify the at-fault third party against whom the Fund may pursue recourse.

For traffic accidents caused by uninsured individuals or persons who have fled, the French Guarantee Fund for Victims may receive the investigation report containing personal data directly from law enforcement:

- concerning recovery from those responsible for the injury, compensation paid to the victim(s) by the French Guarantee Fund for Victims;
- concerning the fight against fraud. This processing may lead to registration on a list of persons at risk of fraud and may lead to the pooling of certain data with external partners in cases of possible or proven fraud.

2/ To contribute to the prevention of non-insurance of motor vehicles in accordance with Article L. 421-1 of the Insurance Code, in particular through the use of data relating to uninsured vehicles.

3/ Ensure quality monitoring of the Guarantee Fund for Victims' missions, in particular :

- management of monitoring and improvement of the quality of the service provided to victims (satisfaction surveys by post, e-mail, or any other means of communication, etc.);
- management of complaints.

WHAT PERSONAL DATA IS PROCESSED BY THE GUARANTEE FUND FOR VICTIMS ?

The French Guarantee Fund for Victims shall collect and process the following data only where they have been obtained in a lawful and fair manner and are strictly necessary for the purposes described above :

- data relating to identification (civil status, nationality, etc.), contact details, etc.;
- data on family situation, including marital status, household composition, etc.;
- data relating to banking information;

- data relating to the determination or evaluation of damages, such as the nature of the accident or offence, compensation, description of damage to property and personal injury, damage survey reports, investigation reports, degree of disability/incapacity, annuities, death benefits, amounts of services, amounts reimbursed by social security and supplementary mutual insurance companies, etc.;

- particularly sensitive data, such as the social security number (NIR) or health information, are only collected from a victim for the processing of their compensation claim involving personal injury;
- data relating to offences committed and convictions pronounced for acts referred to the Guarantee Fund for Victims are used when necessary for processing a victim's compensation claim and also for processing the recourse against the perpetrator.

WHO RECEIVES THE PERSONAL DATA ?

The personal data of the data subjects are only transmitted to natural or legal persons who are legitimately entitled to process them :

- authorised employees of the French Guarantee Fund for Victims in Vincennes or Marseilles, within the limits of their duties and missions;
- agents appointed by the French Guarantee Fund for Victims (doctors, lawyers, experts) within the framework of the compensation procedure;
- where appropriate, victims' welfare agencies or complementary bodies offering benefits, curators, guardians, investigators and health professionals, medical advisors, and authorised personnel, and any entity and person designated by regulations;
- advisors of the victim (or the perpetrator) such as insurers or lawyers who intervene on their behalf with the Guarantee Fund for Victims;
- sub-contractors of the French Guarantee Fund for Victims, such as appointed debt collection agencies, and those involved in legal recovery, such as lawyers, officers of the court, and law officials;

These service providers who are called upon to process personal data on behalf of the Guarantee Fund for Victims contractually undertake to comply with all legal provisions on data protection and will be subject to audits by the Guarantee Fund for Victims to ensure compliance with the rules in this area.

As a general rule, the Guarantee Fund for Victims does not transfer personal data to a recipient located in a country outside the European Union.

However, it may be necessary, for a victim of personal injury who has contacted the French Guarantee Fund for Victims and who resides outside the European Union, with their agreement, to send medical information relating to their compensation claim to the doctor assigned by the Fund to carry out the medical examination at their location.

In addition, the Guarantee Fund for Victims may, in the context of its recovery mission, question an insurer based outside the European Union to find out whether its cover is valid for the at-fault party in the events and, to this end, provide it with information on the materiality of the events and the identity of the perpetrator, with the exception of information relating to the victim's health.

HOW DOES THE GUARANTEE FUND FOR VICTIMS PROTECT THE DATA ENTRUSTED TO IT ?

The French Guarantee Fund for Victims shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk in order to prevent any loss, alteration, disclosure, or unlawful access by unauthorised persons.

It ensures that its service providers contractually respect the same level of security for the data entrusted to them. Access to the Fund's premises is secure and employees are subject to strict compliance with the rules of confidentiality and professional secrecy for the data to which they have access in the course of their duties. These rules are set out in its internal regulations and its code of ethics.

The French Guarantee Fund for Victims shall ensure the best possible protection against any risk of external intrusion and against any unauthorised access to the company, including any attempt to intrude into its computer system.

An internal procedure is formalised to report any possible data breach to the DPO and the Fund's data controllers and to strictly apply the rules imposed by the GDPR and the new French Data Protection Act. The French Guarantee Fund for Victims ensures that protection of privacy is well integrated into any new technological application from the beginning in order to offer the highest possible level of data protection to the data subjects. The Fund shall carry out a data protection impact assessment for any processing of personal data likely to create a high risk for the rights and freedoms of the data subjects.

The use of health information by the French Guarantee Fund for Victims provided by a victim in the context of their compensation claim is strictly controlled and highly secure to prevent unauthorised persons from gaining access to it.

FOR HOW LONG DOES THE GUARANTEE FUND FOR VICTIMS KEEP PERSONAL DATA ?

Personal data are kept for a period of time appropriate for the purposes for which they were saved during the investigation period of the compensation claim and, where appropriate, for the pursuit of recourse by the French Guarantee Fund for Victims.

Compared to the Fund's files relating to material damages with short retention periods, the personal data in the personal injury compensation files are subject to a longer retention period, which justifies an intermediate archiving period to enable the French Guarantee Fund for Victims to examine any possible claim of aggravation of a victim's initial condition.

At the end of this process, the data will be anonymised or deleted.

WHAT ARE THE RIGHTS OF THE DATA SUBJECTS AND HOW CAN THEY BE EXERCISED ?

The French Guarantee Fund for Victims implements the necessary means to enable any data subjects whose personal data is used to exercise their rights.

What are the rights of the data subject ?

- Right of access: they have the right to be informed of the information collected and how it has been processed.
- Right of rectification: they have the right to request a modification of their personal information if it appears to be out of date.
- Right to erase data and to limit its processing: they also have the right to request the erasure or limitation of the use of their data, in particular when it is no longer necessary in the cases provided for under regulations.
- Right of opposition: they may object to the use of their data in the cases provided for in Article 21 of the GDPR.
- They can also file a complaint with the CNIL (www.cnil.fr).

These rights can be exercised through the following contacts :

CONTACTS

The Guarantee Fund for Victims has appointed a Data Protection Officer (DPO) to be the principal contact for the data subjects whose personal data is processed. Any data subject may exercise their rights and send any request for information concerning their personal data :

- by post: attach a copy of both sides of an identity document to the application and send the letter to :

FONDS DE GARANTIE DES VICTIMES
To the attention of the DPO
64 bis avenue Aubert
94682 Vincennes cedex

- by email to: dpo@fgvictimes.fr

DATA CONTROLLERS

FGAO

The Mandatory Third-Party Liability Insurance Guarantee Fund, a company governed by the French Insurance Code, whose registered office is located at 64 bis Avenue Aubert, 94682 Vincennes cedex, identified under the unique RCS Créteil number 781 452 511, represented by Mr Julien Rencki, in his capacity as Director-General.

FGTI

The Guarantee Fund for Victims of Terrorist Acts and Other Offences, a company governed by the French Criminal Procedure Code, whose registered office is located at 64 bis Avenue Aubert, 94682 Vincennes cedex, identified under the unique RCS Créteil number 37778906000011, represented by Mr Julien Rencki, in his capacity as Director-General.

Guarantee Fund for Victims

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